IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 17TH OCTOBER 2007 / 25TH ASWINA 1929

WP(C).No. 26619 of 2007(R)

OS.1670/2003 of I ADDL.M.C.,THRISSUR
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PETITIONER:

REKHA, AGED 29, D/O. KUNDOLI CHANDRAN,
KUTTANELLUR DESOM, THRISSUR TALUK.

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENTS:

SANTHA KRISHNAN, W/O. LATE KRISHNAN,
KAYAMKULAM HOUSE,KAIPPILLY DESOM,VELATHUR
VILLAGE, THRISSUR TALUK.

BY ADV. SRI.JIJO PAUL
SRI.BABU S. NAIR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 17/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXTS:

EXT.P1: A TRUE COPY OF THE DOCUMENT NO: 3460/00 DT. 4.7.00 OF THE AYYANTHOLE S.R.O

EXT.P2: -DO- OF THE NOTICE GIVEN ON BEHALF OF THE PETITIONER HEREIN DT. 23/5/2003

EXT.P3: -DO- OF I.A. NO: 10393/06 IN O.S./06 IN O.S. NO: 1670/03 DT. 27/11/06 ON THE FILE OF THE ADDL. MUNSIFF COURT, THRISSUR

EXT.P4: -DO- OF I.A. NO: 10394/05 IN O.S 1670.03 ON THE FILE OF THE MUNSIFF COURT, THRISSUR DT. 27.11.2006

EXT. P5: -DO- OF THE ORDER PASSED IN I.A. NO: 10394/06 DT. 22.2.2007 ON THE FILE OF THE MUNSIFF COURT, THIRISSUR

EXT.P6: -DO- OF THE ORDER PASSED IN I.A. NO: 10393/06 DT. 22.2.2007 ON THE FILE OF THE MUNSIFF COURT, THRISSUR

jj /True copy/

P.A. TO JUDGE

M.N. KRISHNAN, J.

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W.P.C. NO. 26619 OF 2007

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Dated this the 17th day of October, 2007.

J U D G M E N T

This writ petition is filed against the order of the I Addl. Munsiff, Thrissur in I.A.10394/06 in O.S.1670/03. The defendant in the suit filed an application for setting aside the exparte order and it was allowed but the rider was attached to the effect that written statement cannot be filed. Most probably, such an order was passed in the light of the amended CPC which prescribes a time limit of 90 days for filing the written statement. The Apex Court has made it clear that the fixation of time under that rule is only directory and not mandatory and therefore if sufficient reason is there written statement can be received. Having permitted the defendant to contest the case by setting aside the exparte decree it is only just and reasonable that she may be permitted to file a written statement as well and contest the case. Therefore I set aside the order passed by the Court

below and permit the defendant to file a written statement and further allow her to do so within a period of 30 days from today. The applications for review as well as delay condonation application etc. are allowed.

The writ petition is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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